

#### § 488.305

(e) Optional remedies for a non-State operated NF. A State may establish the following remedies for imposition against a non-State operated NF:

- (1) Directed plan of correction.
- (2) Directed in-service training.
- (3) Alternative or additional State remedies.

(f) Alternative or additional State remedies. If a State uses remedies that are in addition to those specified in paragraph (d) or (e) of this section, or alternative to those specified in paragraph (d) of this section (other than termination of participation), it must—

- (1) Specify those remedies in the State plan; and
- (2) Demonstrate to CMS's satisfaction that those alternative remedies are as effective in deterring noncompliance and correcting deficiencies as the remedies listed in paragraphs (d) and (e) of this section.

[59 FR 56238, Nov. 10, 1994; 60 FR 50118, Sept. 28, 1995]

#### § 488.305 Standard surveys.

(a) For each SNF and NF, the State survey agency must conduct standard surveys that include all of the following:

- (1) A case-mix stratified sample of residents;
- (2) A survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment;
- (3) An audit of written plans of care and residents' assessments to determine the accuracy of such assessments and the adequacy of such plans of care; and

(4) A review of compliance with residents' rights requirements set forth in sections 1819(c) and 1919(c) of the Act.

(b) The State survey agency's failure to follow the procedures set forth in this section will not invalidate otherwise legitimate determinations that a facility's deficiencies exist.

#### § 488.307 Unannounced surveys.

(a) *Basic rule.* All standard surveys must be unannounced.

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(b) *Review of survey agency's scheduling and surveying procedures.* (1) CMS reviews on an annual basis each State survey agency's scheduling and surveying procedures and practices to ensure that survey agencies avoid giving notice of a survey through the scheduling procedures and the conduct of the surveys.

(2) CMS takes corrective action in accordance with the nature and complexity of the problem when survey agencies are found to have notified a SNF or NF through their scheduling or procedural policies. Sanctions for inadequate survey performance are in accordance with § 488.320.

(c) *Civil money penalties.* An individual who notifies a SNF or NF, or causes a SNF or NF to be notified, of the time or date on which a standard survey is scheduled to be conducted is subject to a Federal civil money penalty not to exceed \$2,000.

#### § 488.308 Survey frequency.

(a) *Basic period.* The survey agency must conduct a standard survey of each SNF and NF not later than 15 months after the last day of the previous standard survey.

(b) *Statewide average interval.* (1) The statewide average interval between standard surveys must be 12 months or less, computed in accordance with paragraph (d) of this section.

(2) CMS takes corrective action in accordance with the nature of the State survey agency's failure to ensure that the 12-month statewide average interval requirement is met. CMS's corrective action is in accordance with § 488.320.

(c) *Other surveys.* The survey agency may conduct a survey as frequently as necessary to—

(1) Determine whether a facility complies with the participation requirements; and

(2) Confirm that the facility has corrected deficiencies previously cited.

(d) *Computation of statewide average interval.* The statewide average interval is computed at the end of each Federal fiscal year by comparing the last day of the most recent standard survey for each participating facility to the last day of each facility's previous standard survey.

(e) *Special surveys.* (1) The survey agency may conduct a standard or an abbreviated standard survey to determine whether certain changes have caused a decline in the quality of care furnished by a SNF or a NF, within 60 days of a change in the following:

- (i) Ownership;
- (ii) Entity responsible for management of a facility (management firm);
- (iii) Nursing home administrator; or
- (iv) Director of nursing.

(2) The survey agency must review all complaint allegations and conduct a standard or an abbreviated standard survey to investigate complaints of violations of requirements by SNFs and NFs if its review of the allegation concludes that—

- (i) A deficiency in one or more of the requirements may have occurred; and
- (ii) Only a survey can determine whether a deficiency or deficiencies exist.

(3) The survey agency does not conduct a survey if the complaint raises issues that are outside the purview of Federal participation requirements.

#### § 488.310 Extended survey.

(a) *Purpose of survey.* The purpose of an extended survey is to identify the policies and procedures that caused the facility to furnish substandard quality of care.

(b) *Scope of extended survey.* An extended survey includes all of the following:

- (1) Review of a larger sample of resident assessments than the sample used in a standard survey.
- (2) Review of the staffing and in-service training.
- (3) If appropriate, examination of the contracts with consultants.
- (4) A review of the policies and procedures related to the requirements for which deficiencies exist.
- (5) Investigation of any participation requirement at the discretion of the survey agency.

(c) *Timing and basis for survey.* The survey agency must conduct an extended survey not later than 14 calendar days after completion of a standard survey which found that the facility had furnished substandard quality of care.

#### § 488.312 Consistency of survey results.

CMS does and the survey agency must implement programs to measure accuracy and improve consistency in the application of survey results and enforcement remedies.

#### § 488.314 Survey teams.

(a) *Team composition.* (1) Surveys must be conducted by an interdisciplinary team of professionals, which must include a registered nurse.

(2) Examples of professionals include, but are not limited to, physicians, physician assistants, nurse practitioners, physical, speech, or occupational therapists, registered professional nurses, dietitians, sanitarians, engineers, licensed practical nurses, or social workers.

(3) The State determines what constitutes a professional, subject to CMS approval.

(4) Any of the following circumstances disqualifies a surveyor for surveying a particular facility:

- (i) The surveyor currently works, or, within the past two years, has worked as an employee, as employment agency staff at the facility, or as an officer, consultant, or agent for the facility to be surveyed.
- (ii) The surveyor has any financial interest or any ownership interest in the facility.

(iii) The surveyor has an immediate family member who has a relationship with a facility described in paragraphs (a)(4)(i) or paragraph (a)(4)(ii) of this section.

(iv) The surveyor has an immediate family member who is a resident in the facility to be surveyed. For purposes of this section, an immediate family member is defined at § 488.301 of this part.

(b) *CMS training.* CMS provides comprehensive training to surveyors, including at least the following:

- (1) Application and interpretation of regulations for SNFs and NFs.
- (2) Techniques and survey procedures for conducting standard and extended surveys.
- (3) Techniques for auditing resident assessments and plans of care.

(c) *Required surveyor training.* (1) Except as specified in paragraph (c)(3) of